

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department - LTR - Revision Petition along with stay petition filed by Sri Badireddy Muneswarao, S/o. Late Ramamohanarao, Thantikonda (V) of Gokavaram (M), Alluri Sitharamaraju District (Legal heir & son of actual appellant Rambabu @ Ramamohanarao) against the orders of the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No.19/2011 dated:31.10.2013 in respect of scheduled land in S.No.439 to an extent Hec.4.48.0, S.No.440 to an extent Hec.1.70.0 and in S.No.445/1 to an extent Hec.0.35 (Total Hec.6.53.0) of Indukuru (V), Devipatnam (M), Alluri Sitharamaraju District - Set aside - Remanded the case for a detailed enquiry - Orders - Issued.

TRIBAL WELFARE (LTR-I) DEPARTMENT

G.O.MS.No.17

Dated:15.03.2024

Read the following:

- 1.Revision Petition along with stay petition filed by Sri Badireddy Muneswarao, S/o.Late Ramamohanarao, Thantikonda (V) of Gokavaram (M), Alluri Sitharama Raju District (Legal heir & son of actual appellant Rambabu @ Ramamohanarao), dated:13.12.2013.
- 2.From the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District, C.M.A. No.19/2011, dated:31.10.2013.

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ORDER :

In the reference 1st read above, Sri Badireddy Muneswarao, S/o. Late Ramamohanarao, Thantikonda (V), Gokavaram (M), Alluri Sitharamaraju District (Legal heir & son of actual appellant Rambabu @ Ramamohanarao) erstwhile East Godavari District against the orders of the Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District in C.M.A.No.19/2011, dated:31.10.2013 in respect of scheduled land an extent of Hec.4.48.0 in S.No.439, an extent of Hec.1.70.0 in S.No.440 and an extent of Hec.0.35 in Sy.No.445/1 (Total Hec.6.53.0) of Indukuru (V), Devipatnam (M), Alluri Sitharamaraju District erstwhile East Godavari District.

2.Brief history of the subject case:

- The Special Deputy Tahasildar (TW), Devipatnam (M), Alluri Sitharamaraju District has filed a Complaint under section 3(1) of A.P.S.A.L.T.R 1 of 1959 as amended by Regulation 1 of 1970 for restoration of Petition Scheduled land after ejecting the non-tribal respondents (i.e. Sri Badireddy Rambabu, Tantikonda Village, Gokavaram Mandal, Alluri Sitharama Raju District).
- After due enquiry, the Special Divisional Officer (TW), Rampachodavaram ordered dated:10.02.2011, L.T.R.P.No.129/2007 that the respondent failed to prove his continuous possession and enjoyment of the said land. More over, the Petition Scheduled land is classified as waste in the records which belongs to Government.The non-tribals are not entitled to assign the government land in the scheduled area.As the land is situated in the notified scheduled area and as the respondent is a non-tribal, the burden of proof always lies on the non-tribal respondent to file necessary valid documents issued by the competent authority and his occupation is not violative of the provisions of LTR. But he failed to do so. Hence the respondent has no right to continue in the possession and enjoyment of the Petition Scheduled land as he has not proved his title over the Petition Schedule land in question.
- The Special Deputy Collector (TW), Rampachodavaram has passed the orders in L.T.R.P.No.129/2007, dated:10.02.2011, in exercise of the powers conferred by

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section 3 of A.P.S.A.L.T.R 1/59 as amended by regulation 1/70, the Agency Divisional Officer, Rampachodavaram do hereby decree for ejectment of respondents from the Petition Schedule Land and restored to the Government and allot the same to the eligible Tribals.

- Aggrieved by the orders of the Agency Divisional Officer (TW), Rampachodavaram, Alluri Sitharamaraju District, Sri Badireddy Muneswarao, S/o. Late Ramamohanarao, Thantikonda (V) of Gokavaram (M), Alluri Sitharamaraju District (Legal heir & son of actual appellant Rambabu @ Ramamohanrao) has filed an appeal before the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District erstwhile East Godavari District for seeking orders of suspension of lower court order in LTRP No.129/2007 dated:10.02.2011.
 - After examined all the documentary evidence available on record, as per the village Fair Adangal of Indukuru village which is the prime record to confirm the title of the land, the land under appeal is classified as "assessed waste" (Banjar). It shows that no person occupied the land at the time of survey operations. The appellant has not given any information whether they have filed claim petitions before the settlement authorities for granting settlement patta and also not furnished the information whether the claim petition accepted or rejected by the Settlement Officer before finalizing the survey records. Hence it is construed that the appellant have no recorded evidence to produce for providing his title over the land.
 - Finally, the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District has order under Sec. 8(2) (a) of APSALTR 1959 uphold the orders passed by the lower court in LTRP.No.129/2007, dt.10.02.2011 and dismissed the appeal vide CMA No. 19/2011, dated:31.10.2013.
3. Aggrieved by the above orders, the Revision Petitioner Sri Badireddy Muneswarao, S/o. Late Ramamohanarao filed a Revision Petition before the Government and requested the Hon'ble Court may be pleased to set-aside the orders passed by the courts below in C.M.A.No.19/2011, dated:31.10.2013 on the file of the Additional Agent to Government, Rampachodavaram while confirming the orders in L.T.R.P.No.129/2007, dated:10.02.2011 on the file of the Agency Divisional Collector (TW), Rampachodavaram, Alluri Sitharamaraju District and pass such other order or orders as are deemed fit or proper in the circumstances of the case.
4. The Project Officer, ITDA, Rampachodavaram cum the Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District has been requested to furnish the detailed Parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. Accordingly, the Project Officer, ITDA, Rampachodavaram in his letter dated: 07.11.2014 has enclosed the copy of order issued by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District passed in CMA No.19/2011, dated.31.10.2013 and the remarks on the affidavit filed by the Petitioner.
5. The said Revision Petition has been posted for hearing before the Hon'ble Revision Authority on several dates and finally 16.12.2023 duly informing the same to the petitioner and defendants. During the course of the hearing and on perusal of the connected records/relevant materials and Para-wise Remarks submitted dated: 07.11.2014 by the Project Officer, ITDA, Rampachodavaram cum Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District and written arguments filed by both parties counsels, the Revision Authority has observed that:
- I. This Memorandum of Revision Petition is filed by Sri Badireddy Muneswarao S/o. Late Ramamohanarao, Thantikonda (V) of Gokavaram (M), East Godavari District (Legal heir a son of actual appellant Rambabu @ Ramamohanrao) against the orders of the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram, East Godavari District passed in CMA No.19/2011

dated:31.10.2013 in respect of schedule lands in S.No.439 to an extent Hec.4.48.0, S.No.440 extent Hec. 1.70.0 and in Sy.No.445/1 extent Hec.0.35 (Total Hec.6.53.0) of Indúkuru (V), Devipatnam (M), Alluri Sitharamaraju District erstwhile East Godavari District under Sec. 3(2) (a) of APSALTR 1959 while upholding the orders of the Agency Divisional Officer, Tribal Welfare, Rampachodavaram passed in LTRP No.129/2007, dated:10.02.2011 for eviction of non-tribal respondent therein from the Schedule lands and restore to the Government for consequential assignment to the eligible tribals.

- II. The matter came up for hearing finally before the Revision Authority on 16-12-2023 in the presence of Counsel for the Revision Petitioner and the Special Deputy Collector (TW) and Special Deputy Tahsildar (TW), ITDA, Rampachodavaram, Parawise remarks were furnished by the Additional Agent to Government. During the enquiry an application was filed on 28-10-2023 seeking to add Smt. B. Seetha and B. Muniyya Dora of Thantikonda(V) as they are necessary parties to the proceedings and the same was allowed. The counsel for the Revision Petitioners submitted written arguments. After perusing the material papers available in the file the following order is made.
- III. The Revision Petitioners contends that the lands in question have been in their possession and enjoyment even before the commencement of the Land Transfer Regulations 1 of 70 and subject lands are not belonging either to Government or Tribals and that the lands originally belonged to Sri Badireddy Rajayya and the lands were devolved to them through succession and that the Lower Court failed to consider their documents and a settlement patta in case A.P No.2/1980, dated:20.07.1980 was granted by the settlement officer, Anakapalli and that the lands were mutated by the Tahsildar, Devipatnam on their names and they have valid title over the lands and finally requested to remand the case to the Lower Court for an enquiry.
- IV. The Additional Agent to Government has filed Parawise remarks while stating that an adequate opportunity was provided to the Revision Petitioners here in to produce documentary evidence in support of their claim, but they failed to establish their title over the subject lands, and the burden of proof always lies on the non-tribal petitioners and that the lands involved in the case were declared as "Assessed Waste" (Banjar) land as per the Fair Adangal records and no one was in occupation of the lands at the time of Survey and Settlement Operations which were carried under the provisions of AP Scheduled Area Ryotwari Settlement Regulations 2 of 70 as such the land belongs to the State.
- V. The Additinal Agent to Government has further submitted that the occupation of Government lands in schedule area by a non-tribal is totally prohibited and said occupation comes within the meaning of a word "transfer" under section 2 (g) of the Regulation as observed by the Hon'ble High Court of A.P. The Additional Agent to Government has cited the relevant para of the observation of the Hon'ble High Court, in support of his observations, "Even if land classified as Gayyalu / Government Poramboke, who is in possession of such land must be said to be dealing with such immovable property. Therefore same falls within the scope of "Transfer" as defined under Section 2 (g) and 3 (1)(a) of A.P. Scheduled Areas Land Transfer Regulations 1 of 59 as amended by 1 of 70". (Vuppuluri Veera Venkata Raju Vs. Special Deputy Tahsildar, (TW), Gangavaram, E.G.District (2007) (6) ALD 292). The Additional Agent to Government has finally submitted that there are no merits in the contentions of the Revision Petitioner and the Petition is liable for dismissal with cost.
- VI. The background of cases and rival submissions give rise to following points for consideration.
- VII. Whether the occupation and possession of such lands is violative of the provisions of the AP Scheduled Area Land Transfer Regulations of 1 of 59 as amended by 1 of 70?"

- VIII. The Clause (b) of Section 3(1) which was substituted by Regulation I of 1970 raised a presumption that the property situated in the Agency Tracts in possession of a non-tribal shall be presumed to have been acquired by such a person or his predecessor-in-possession through a transfer made to him by a member of Schedule Tribe. The transfer of lands situated in the scheduled area in favor of non-tribals is prohibited under the Land Transfer Regulations 1 of 70.
 - IX. The counsel for the Revision Petitioner filed a few documents including an order of Settlement Officer, Anakapalli in Case A.P No. 2/1980 said to have been issued in favor of Smt. Badireddi Venkayamma, W/o. Muniyya for the lands S.No.439, 440 and 445/1 Record of Rights (IB) dated:19-10-2023 issued in favor of Badireddy Seetha, Badireddy Muneswararao and Badireddy Muniyyadora for the lands covered by S.No. 439/2, 440, and 445/1, tax receipts pertaining to 1369,1358 and 1370.
 - X. The Additional Agent to Government observed in the impugned order that As seen from the order of the lower court and appeal record on hand it is observed that the appellant has not produced any document to prove their right over the land either in the Lower Court or in Appellate Court".
 - XI. Therefore the Revision Petitioners herein who filed the said documents of photo copies before this authority were not subjected to scrutiny either before the Appellate Authority or Preliminary Authority under the provisions of AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70.
 - XII. However this authority cannot ignore a fact that there is no signature of the author (settlement officer) on the settlement order said to have been passed in case AP No. 2/80 filed and also on tax receipts (Photo copies) filed by the Revision Petitioners herein. Moreover the recitals on the said documents are not clear, and it appears that the relative space between the words and words mentioned there on mismatching and no where it is recited that the applicant is entitled to settlement patta for the schedule lands which are in question.
 - XIII. Moreover, the counsel for the Revision Petitioner has also requested to remand the matter to the Lower Court for an enquiry in his written arguments filed dated:08-01-2024.
 - XIV. In exercise of the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the impugned order passed by the Additional Agent to Government, Rampachodvaram, Alluri Sitharama Raju District, in CMA No.19/2011, dated:31.10.2013 in respect of scheduled land in S.No.439 to an extent Hec.4.48.0, S.No.440 extent Hec.1.70.0 and in Sy.No.445/1 extent Hec.0.35 (Total Hec.6.53.0) of Indukuru (V), Devipatnam (M) East Godavari District is hereby set-aside and remanded the matter to the Additional Agent to Government, Rampachodavaram, Alluri Sitharama Raju District, for a detailed enquiry and pass orders in accordance with the provisions of A.P. Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 within three months from the date of receipt of this order.
 - XV. The Additional Agent to Government is further directed to admit the documents filed by the Revision Petitioners on production of the copy of the original Order of the Settlement Officer, Anakapalli, which is said to have been passed in Case AP No.2/80 in their favour and its related tax receipts (or) copies of the said documents duly certified by the competent authorities by giving a due opportunity to all the parties concerned to file objections if any to mark the said documents. Status quo with regard to possession of the Revision Petition Schedule lands shall be maintained pending disposal of the remanded matter. As a sequel interim orders if any passed in the matter are hereby vacated. Revision Petition is disposed of accordingly.
6. The Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under Section 6 of

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As a sequel interim orders if any passed in the matter are hereby vacated. Revision Petition is disposed of accordingly.

6. The Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under Section 6 of A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70, the orders passed by the Appellate Authority Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No.19/2011, dated:31-10-2013 are hereby set-aside and the Revision petition filed by Sri Badireddy Muneswarao, S/o. Late Ramamohanarao, Thantikonda (V) of Gokavaram (M), Alluri Sitharamaraju District (Legal heir & son of actual appellant Rambabu @ Ramamohanarao) against the orders of the Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District in C.M.A.No.19/2011, dated:31.10.2013 in respect of scheduled land in S.No.439 to an extent Hec.4.48.0, S.No.440 extent Hec.1.70.0 and in Sy.No.445/1 extent Hec.0.35 (Total Hec.6.53.0) of Indukuru (V), Devipatnam (M), Alluri Sitharamaraju District erstwhile East Godavari District is set aside and remanded the matter to the lower court and Interim orders passed if any are hereby vacated in the matter.
7. The Collector & District Magistrate, Alluri Sitharamaraju District, Paderu is requested to take necessary action in the matter and acknowledge the receipt of the case records, which are returned herewith to the Additional Agent to Government/ Project Officer, Rampachodavaram, Alluri Sitharamaraju District.
8. This order shall be published in apegazette.cgg.gov.in.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Agent to Government/Collector & District Magistrate,
Paderu, Alluri Sitharamaraju District. PIN-530 011.

The Additional Agent to Govt. cum Project Officer,
ITDA, Rampachodavaram,
Alluri Sitharamaraju District, PIN-533 288. (w.e) RPAD.

The Special Deputy Collector, Rampachodavaram,
Alluri Sitharamaraju District. PIN-533 288

The Tahsildar, Devipatnam Mandal, Alluri Sitharamaraju District.
Pin.533428

Sri Kola Satya Prasad, Advocate, Near RTC Bus Stand,
Rampachodavaram, Alluri Sitha Ramaraju District, PIN-533288.

Sri Badireddy Muneswara Rao, S/o. late Ramamohana Rao,
Thantikonda Village, Gokavaram Mandal, Alluri Sitha Ramaraju
District.533436

Sri Badireddy Seetha , S/o. late Radha Krishna,
Thantikonda Village, Gokavaram Mandal, Alluri Sitha Ramaraju
District.533436

Sri Badireddy Muniyya Dora, S/o. late Edukondalu, Thantikonda Village,
Gokavaram Mandal, Alluri Sitha Ramaraju District.533436

Copy to:

✓ The OSD to Hon'ble Dy. Chief Minister (TW)

The P.S. to Principal Secretary to Government (TW).

The Commissioner of Printing, Stationery (for Publication in the AP Gazette),
Vijayawada.

SF/SC.

// FORWARDED :: BY ORDER //

M. Srinivas Rao
SECTION OFFICER

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